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NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

SARBJEET SINGH KAMBOJ,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

Nos. 05-73570

05-75452

Agency No. A77-819-768

MEMORANDUM *

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted, November 13, 2007 **

Before: TROTT, W. FLETCHER and CALLAHAN, Circuit Judges.

In these consolidated petitions, Sarbjeet Singh Kamboj, a native and citizen of India, seeks review of the Board of Immigration Appeals' ("BIA") order denying his application for withholding of removal and relief under the Convention

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Against Torture (“CAT”) and its order denying his motion to reconsider. We review Singh’s application for withholding of removal for substantial evidence, *Lata v. INS*, 204 F.3d 1241, 1245 (9th Cir. 2000), and we review the denial of a motion to reconsider for abuse of discretion, *Oh v. Gonzales*, 406 F.3d 611, 612 (9th Cir. 2005). We deny in part and dismiss in part the petition in No. 05-73570 and deny the petition in No.05-75452.

We lack jurisdiction to review the BIA’s determination that Singh Kamboj failed to file his asylum application within one year of his arrival in the United States because the facts are in dispute. *See Ramadan v. Gonzales*, 479 F.3d 646, 656-57 (9th Cir. 2007).

As to Singh Kamboj’s withholding claim, the agency found that Singh Kamboj’s testimony was materially inconsistent with his statement to the asylum officer regarding a matter that goes to the heart of his asylum claim, namely, what he was doing immediately prior to his arrest in February of 1997. Viewed as a whole, substantial evidence supports the agency’s adverse credibility determination. *See Li v. Ashcroft*, 378 F.3d 959, 962-63 (9th Cir. 2004) (holding that where asylum officer testifies at hearing, inconsistencies between the petitioner’s asylum interview and hearing testimony can support adverse credibility finding); *Kaur v. Gonzales*, 418 F.3d 1061, 1065 (9th Cir. 2005).

The BIA did not abuse its discretion in denying Singh Kamboj's motion to reconsider because he failed to show an error of law. *See* 8 C.F.R. § 1003.2(b)(1); *Socop-Gonzalez v. INS*, 272 F.3d 1176, 1180 n.2 (9th Cir. 2001) (en banc).

PETITION FOR REVIEW DENIED in part; DISMISSED in part in No. 05-73570.

PETITION FOR REVIEW DENIED in No. 05-75452.